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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,604	10/05/2005	Ernst Ingvar Losell	08806.0185	6336
22853	7590	02/25/2009		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER CHORBAJI, MONZER R	
			ART UNIT	PAPER NUMBER
			1797	
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			02/25/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/552,604

**Applicant(s)**

LOSELL, ERNST INGVAR

**Examiner**

MONZER R. CHORBAJI

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 10/5/05  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

**This is a first action on the merits in response to the application filed on 10/5/05**

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lambers (U.S.P.N. 2,771,346).

Regarding claim 1, Lambers discloses a device (figure 1:17) for use in a cartridge (figure 1:10 and 11) for on-line preparation of a solution that is capable of holding solids (col.1, lines 19-20) for a medical procedure, said device (17) comprising a hollow body (col.2, lines 1-7 where one recognizes that the filter unit 17 is made up of a perforated empty and hollow cylindrical member 18 as shown in figure 3) having a first end (unlabeled cylindrical side walls of cylindrical member 18 having series of slits) and a second end (figure 3:19) and being provided with through holes in its walls (the openings mentioned in col.2, lines 2-3 that are present in the walls of member 18 that is considered as first end), wherein said second end is closed (figure 3:19 and col.2, lines 4-5) and said first end is open (unlabeled side walls of cylindrical member 18 having series of slits or openings), said first end being adapted to receive a fluid (fluid flows through openings in first end as mentioned in col.2, lines 1-3 to outlet conduit 14)

introduced into the cartridge (figure 1:22, 10 and 14) and to allow the fluid to exit the device through said holes (fluid is mixed within container 10 and then exits device 17 by going through openings present along the walls of its cylindrical member 18 and out of device 17 through pipe 16 to outlet conduit 14) .

Regarding claim 2, Lambers discloses that the hollow body (figure 3:18) has an elongated, tubular form (unlabeled shape of 18 has an elongated and tubular form).

Regarding claim 4, Lambers discloses that the through holes are distributed along said body (col.2, lines 1-4).

Regarding claim 5, Lambers discloses that the body (18) at its said first end (unlabeled cylindrical side walls of cylindrical member 18) has engaging means (unlabeled nut that is connected to head fitting 21 as shown in figure 1) adapted for connection (through head fitting 21) of the device (17) to the cartridge (10 and 11).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lambers (U.S.P.N. 2,771,346) as applied to claim 1 and further in view of Spiegel et al. (U.S.P.N. 3,429,444).

Lambers fails to teach that the hollow body being in the form of a conical tube. Spiegel teaches filtering of wash water using a filter unit (figure 1:10) having the form of a conical tube (col.2, lines 40-44) since the structure of such a filter unit provides a filter being compact in size and is of quite light weight (col.4, lines 69-72). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cartridge in Lambers with the conical-shaped filter, since this structure provides a filter being compact in size and is of quite light weight as explained by Spiegel (col.4, lines 69-72).

6. Claims 6-8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambers (U.S.P.N. 2,771,346) as applied to claim 1 and further in view of Petrucci et al. (U.S.P.N. 4,948,505).

Regarding claim 6, Lambers discloses a cartridge (10 and 11) for on-line preparation of a solution that is capable of holding solids (col.1, lines 19-20) for a medical procedure, of water solvent (col.1, lines 20-21) and a solvable solid (col.1, line 19) where the cartridge is capable of holding powder or granulate contained in the cartridge (col.1, lines 19-20), comprising a vessel (10) for containing solids, said vessel (10) being provided with at least one inlet (figure 1:22) for the solvent, and at least one

outlet (figure 1:14) for the solution, characterized in being provided with the device (17) that is connected to the outlet (figure 1:17, 21, 16 and 14).

Lambers fails to teach that the device being connected to said inlet. Petrucci disclose a water filtering unit (figure 1:14) having an outlet port (figure 1:38) that is connected to an outlet of an apparatus (col.7, lines 24-27) for providing a feed liquid-containing substance having less undissolved solids (col.5, lines 55-60). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the inlet of the cartridge in Lambers with the filtration unit in order to provide a feed liquid-containing substance having less undissolved solids as explained by Petrucci (col.5, lines 55-60).

Regarding claim 7, Lambers discloses that the vessel (10) contains a quantity of solid (col.1, lines 19-20) where the cartridge (10 and 11) is capable of holding powder or granular form suitable for one treatment procedure.

Regarding claim 8, Lambers discloses a cartridge (10 and 11) having a self-contained form (considered the sealed form of container 10 and lid 11) having fluid penetrable membrane at its outlet (considered the slits present in the cylindrical walls of 18 that is part of filter unit 17).

Lambers fails to teach that the cartridge has a fluid penetrable membrane at its inlet. Petrucci disclose a water filtering unit (figure 1:14) having an outlet port (figure 1:38) that is connected to an outlet of an apparatus (col.7, lines 24-27) for providing a feed liquid-containing substance having less undissolved solids (col.5, lines 55-60). It would have been obvious to one of ordinary skill in the art at the time of the invention to

provide the inlet of the cartridge in Lambers with the filtration unit (considered as the fluid penetrable membrane) in order to provide a feed liquid-containing substance having less undissolved solids as explained by Petrucci (col.5, lines 55-60).

Regarding claim 10, Lambers discloses the steps (col.1, lines 15-16, lines 66-67 and col.2, lines 1-7) of arranging the device (17) on a downstream side (where the upside stream is considered water entering through inlet conduit 22 and the down stream side is considered the filtered solution exiting filter unit 17 to outlet conduit 14) of a source of water (col.1, lines 19-22) being connected to the cartridge (10 and 11).

Lambers fails to teach that water enters the cartridge via the device (17). Petrucci disclose a water filtering unit (figure 1:14) having an outlet port (figure 1:38) that is connected to an outlet of an apparatus (col.7, lines 24-27) for providing a feed liquid-containing substance having less undissolved solids (col.5, lines 55-60). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the inlet of the cartridge in Lambers with the filtration unit (considered as the fluid penetrable membrane) in order to provide a feed liquid-containing substance having less undissolved solids as explained by Petrucci (col.5, lines 55-60).

Regarding claim 11, Lambers discloses a cartridge (10 and 11) for on-line preparation of a solution that is capable of holding solids (col.1, lines 19-20) for a medical procedure, the use (col.1, lines 15-21) comprising the steps of: connecting the inlet (22) of the cartridge (10 and 11) to a source of water (col.1, lines 20-21), and connecting the outlet (14) of the cartridge to a discharge means (one recognizes that outlet conduit 14 is connected to other systems to dispense the solution that is created

by dissolving the solids placed within container 10) where container 10 is capable of holding powder or granulate to be dissolved in water.

Lambers fails to teach that the water enters the cartridge via the device (17). Petrucci disclose a water filtering unit (figure 1:14) having an outlet port (figure 1:38) that is connected to an outlet of an apparatus (col.7, lines 24-27) for providing a feed liquid-containing substance having less undissolved solids (col.5, lines 55-60). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the inlet of the cartridge in Lambers with the filtration unit in order to provide a feed liquid-containing substance having less undissolved solids as explained by Petrucci (col.5, lines 55-60).

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lambers (U.S.P.N. 2,771,346) as applied to claim 1 and further in view of Buttery (U.S.P.N. 5,290,445).

Lambers discloses a method for manufacturing a cartridge (col.1, lines 15-16) for on-line preparation of a solution of water (col.1, lines 20-21) that is capable of holding powder or granulate contained in the cartridge (col.1, lines 19-20), said method comprising the steps of: providing a vessel (10) having an inlet (22) for receiving said water (col.1, lines 19-20) from a source and having an outlet (14) for delivering said solution, filling said vessel with a charge of solid material (col.1, lines 19-20) suitable for at least one treatment procedure, and arranging of a device (17) on a downstream side (where the upside stream is considered water entering through inlet conduit 22 and the



down stream side is considered the filtered solution exiting filter unit 17 to outlet conduit 14) of said inlet (22).

Lambers fails to teach that the prepared solution is be used in a medical procedure. Buttery discloses a water filtering unit (see figure 1) that is used as a prefilter for the water supply of a dialysis machine (considered as a medical procedure) in order to prevent the accumulation of impurities (col.6, lines 55-62). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the device in Lambers with dialysis machines in order to prevent the accumulation of impurities as explained by Buttery (col.6, lines 55-62).

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571)272-1271. The examiner can normally be reached on M-F 9:00-5:30.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**10.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R. C./

/Jill Warden/  
Supervisory Patent Examiner, Art Unit 1797